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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,032	07/31/2000	Luke Surazski	CISCO-2935	4744

7590
Timothy A. Brisson
Sierra Patent Group Ltd
PO Box 6149
Stateline, NV 89449

07/23/2004

EXAMINER

MILLS, DONALD L

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,032

Applicant(s)

SURAZSKI ET AL.

Examiner

Donald L Mills

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 10-14, 16, 19-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 16 and 25 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 10, 11, 14, 19, 20 and 23 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 12, 13, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to the Amendment filed May 10, 2004. Claims 1-5, 7, 10-14, 16, 19-23, and 25 are pending. Currently claims 7, 16, and 25 are in condition for allowance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 6, 10, 12, 15, 16, 19, 20, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Pecen et al. (US 6,282,182 B1), hereinafter referred to as Pecen.

Regarding claims 1, 10, and 19, Pecen discloses a system that incorporates transmission and reception of GPRS/EDGE data during discontinuous transmission and reception modes, which comprises:

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Determining, by the TX unit of the IP telephone,/Means for determining whether silence exists (Claims 1, 10, and 19) (Referring to Figures 2 and 3, during a discontinuous transmission operation, the GPRS/EDGE mobile station **202** stops transmitting on its traffic channel **204**, inherently comprising the detection of silence. See column 3, lines 19-23.)

If silence is detected, then sending, by the TX unit,/Means for sending a first silence indication packet while said TX unit continues to send voice packets (Claims 1, 10, and 19) (Referring to Figures 2 and 3, during discontinuous transmission operation the mobile station **202** stops transmitting on its traffic channel **204**, except for the periodic transmission of a silence descriptor frame **210**. Frame periods **212** which occur between SID frames **210** are available for the transmission of GPRS/EDGE data. See column 3, lines 19-28.)

Waiting, by the TX unit,/Means for waiting a predetermined amount of time to pass (Claims 1, 10, and 19) (By definition, the mobile station **202** waits 480 ms during continuous silence.)

Sending, by the TX unit,/Means for sending a second silence indication packet after the predetermined amount of time passes (Claims 1, 10, and 19) (By definition, the mobile station **202** waits 480 ms during continuous silence, before transmitting a second SID frame.)

Waiting, by the TX unit,/Means for waiting for voice activity to be detected (Claims 1, 10, and 19) (Referring to Figure 8, when circuit-switched voice data is available in Step **300**. See column 7, lines 24-25.)

Starting, by the TX unit,/Means for starting normal packet activity after the voice activity is detected (Claims 1, 10, and 19) (Referring to Figure 8, when circuit-switched voice data is

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available in Step 300, the circuit-switched voice data is transmitted on a traffic channel that has been dedicated to voice operation during setup (Step 310). See column 7, lines 24-27.)

Regarding claims 2, 11, and 20, Pecen discloses *wherein the first silence indication has an indication therein which contains the background noise level sensed by the TX unit (Claims 2, 11, and 20)* (By definition, the SID frame contains characteristics of the background noise via samples of the silence at the originating terminal.)

Regarding claims 5, 6, 14, 15, 23, and 24, Pecen discloses *wherein the predetermined amount of time comprises an amount of time sufficient for the RX unit to attenuate the real background noise (Claims 5, 14, and 23)/wherein the predetermined amount of time comprises approximately two seconds (Claims 6, 15, and 24)* (During discontinuous transmission, the receiving terminal unit inherently attenuates the real background noise almost immediately when a SID frame is received.)

Allowable Subject Matter

4. Claims 3, 4, 12, 13, 21, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 7, 16, and 25 are allowed.

Response to Arguments

6. Applicant's arguments filed May 10, 2004 have been fully considered but they are not persuasive.

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Rejection Under 35 USC § 102

On page 9 of the remarks, regarding claims 1, 10, and 19, Applicant argues that Pecen does not disclose *determining, by the TX unit of the IP telephone, whether silence exists*. The Examiner respectfully disagrees. By definition, the word, “determine” means “to reach, make, or come to some decision about something.” Pecen discloses while during a discontinuous transmission operation, the GPRS/EDGE mobile station **202** stops transmitting on its traffic channel **204**, after detecting/determining the absence of speech. Further, the Examiner interprets the absence of speech as the existence of silence (See column 3, lines 19-23.) Therefore, Pecen discloses *determining, by the TX unit of the IP telephone, whether silence exists*.

Also, on page 10 of the remarks, Applicant argues that Pecen does not disclose *if silence is detected, then sending, by the TX unit, a first silence indication packet while said TX unit continues to send voice packets*. The Examiner respectfully disagrees. Pecen discloses during periods of detected silence, periodically transmitting a silence descriptor frame (the first silence indication packet) by the mobile station **202** (TX unit) during discontinuous transmission operation and during frame periods **212** which occur between SID frames **210** transmitting GPRS/EDGE data (voice packets) (See column 3, lines 19-28.) Therefore, Pecen discloses *if silence is detected, then sending, by the TX unit, a first silence indication packet while said TX unit continues to send voice packets*.

Also, on page 11 of the remarks, Applicant argues that Pecen does not disclose *waiting, by the TX unit, for voice activity to be detected*. The Examiner respectfully disagrees. Pecen discloses the mobile station **202** remains in discontinuous operation until (waiting) circuit-

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switched voice data is available (detecting voice activity) in Step 300 (See column 7, lines 24-25.) Therefore, Pecen discloses *waiting, by the TX unit, for voice activity to be detected.*

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Mills whose telephone number is 703-305-7869. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Donald L Mills



July 14, 2004



JOHN PEZZLO
PRIMARY EXAMINER